

After reviewing the record and considering the arguments of the parties, the Appeals Board finds that the issues raised by respondent are not ones subject to review on appeal at this point in the proceedings. The Appeals Board has jurisdiction to review a preliminary order pursuant to K.S.A. 44-534(a), as amended, and other awards and orders under K.S.A. 44-551, as amended. In this case respondent argues that it should be entitled to an extension of terminal dates to produce evidence relating to the claimant's retirement benefits. Respondent also argues that the evidence may be irrelevant, because, according to respondent, the claim should be limited to functional impairment for other reasons. The retirement benefit offset cannot reduce the award to less than the functional impairment. K.S.A. 44-501(h), as amended. The Appeals Board has previously held that orders other than preliminary hearing orders entered by the administrative law judge as a part of the processing of the claim are not subject to review until the final award. An order denying the extension of terminal dates is not a final order and is not subject to appeal.

Respondent has also asserted that claimant's refusal to stipulate to certain facts relating to retirement constitutes fraud and abuse. This issue is not subject to jurisdiction of the Appeals Board. It is subject to procedures set out in K.S.A. 44-5,120.

WHEREFORE, for the above and foregoing reasons the Order entered by Administrative Law Judge Nelsonna Potts Barnes on May 13, 1996, remains in full force and effect.

IT IS SO ORDERED.

Dated this _____ day of August 1996.

BOARD MEMBER

c: Gregory D. Bell, Wichita, KS
Bryce A. Abbott, Wichita, KS
Nelsonna Potts Barnes, Administrative Law Judge
Philip S. Harness, Director